

**VETERINARY MEDICAL BOARD
CRIMINAL CONVICTION SUBSTANTIAL RELATIONSHIP
AND REHABILITATION CRITERIA
ORDER OF ADOPTION**

Amend Sections 2040 and 2041, Article 5, Division 20, Title 16 of the California Code of Regulations to read as follows:

§ 2040. Substantial Relationship Criteria.

(a) For the purposes of denial, suspension, or revocation of a license pursuant to Section 141, Division 1.5 (commencing with Section 475), or subdivision (n) of Section 4883 of the code, a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions, or duties of a person holding a license under Chapter 11 of Division 2 of the code if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her the license in a manner consistent with the public health, safety, or welfare. For purposes of this subsection, "license" shall mean license, registration, or permit. Such crimes or acts shall include but not be limited to those involving the following:

(b) In making the substantial relationship determination required under subsection (a) for a crime, the board shall consider all of the following criteria:

(1) The nature and gravity of the offense.

(2) The number of years elapsed since the date of the offense.

(3) The nature and duties of the profession in which the applicant seeks licensure or in which the licensee is licensed.

(c) For purposes of subsection (a), a substantially related crime, professional misconduct, or act shall include the following:

(a1) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 11, Division 2 of the code or other state or federal laws governing the practice of veterinary medicine.

(b2) Conviction of a crime involving fiscal dishonesty.

Note: Authority cited: Sections 481 and 4808, Business and Professions Code.

Reference: Sections 141, 480, 481, 488, 490, and 492, 493 and 4883, Business and Professions Code.

§ 2041. Criteria for Rehabilitation.

(a) For purposes of subsections (c) and (d), "license" shall mean license, registration, or permit.

(b) For purposes of subsections (c) and (d), "licensee" shall mean licensee, registrant, or permit holder.

(c) Denial of a license.

(1) When considering the denial of a license under Section 480 of the code on the ground that the applicant has been convicted of a crime, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license will consider the following criteria: shall consider whether the applicant made a showing of rehabilitation, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall consider the following criteria:

(A) The nature and gravity of the crime(s).

(B) The length(s) of the applicable parole or probation period(s).

(C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(D) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(2) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (c)(1), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 4836.2, 4842, 4845.5, or 4883 of the code, the board shall apply the following criteria in evaluating an applicant's rehabilitation:

(1A) The nature and severitygravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

(2B) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.

(3C) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subdivision paragraph (1A) or (2B).

(4D) The extent to which Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5E) The criteria in subsection (c)(1)(A)-(E), as applicable.

(F) Evidence, if any, of rehabilitation submitted by the applicant.

(bd) Suspension or revocation of a license.

(1) When considering the suspension or revocation of a license under Section 490 of the code on the ground that a person holding a license under Chapter 11 of Division 2

of the code has been convicted of a crime, the board shall consider whether the licensee made a showing of rehabilitation, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the board shall, ~~shall in evaluating the rehabilitation of such person and his or her eligibility for a license will~~ consider the following criteria:

(A) The nature and gravity of the crime(s).

(B) The length(s) of the applicable parole or probation period(s).

(C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(D) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(2) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the board determines that the licensee did not make the showing of rehabilitation based on the criteria in subsection (d)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the code, or the suspension or revocation is based on one or more of the grounds specified in Sections 4836.2, 4837, 4845.5, or 4883 of the code, the board shall apply the following criteria in evaluating the licensee's rehabilitation:

(4A) Nature and ~~severity~~gravity of the act(s), disciplinary action(s), or offensecrime(s).

~~(2B)~~ Total criminal record.

(3C) The time that has elapsed since commission of the act(s), disciplinary action(s), or offensecrime(s).

(4D) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

~~(5E)~~ The criteria in subsection (d)(1)(A)-(E), as applicable.

(F) If applicable, evidence of ~~expungement~~dismissal proceedings pursuant to Section 1203.4 of the Penal Code.

~~(6G)~~ Evidence, if any, of rehabilitation submitted by the licensee.

~~(ee)~~ When considering a petition for reinstatement of a license or registration under the provisions of Section 4887 of the code11522 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in subsection (ac) of this section.

Note: Authority cited: Sections 481, 482, and 4808, Business and Professions Code.
Reference: Sections 141, 475, 480, 481, and 482, 488, 490, 493, 4836.2, 4837, 4842, 4845.5, 4883 and 4887, Business and Professions Code.